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RIVERSIDE, SERGEANT PAUL
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JUAN CARLOS RODRIGUEZ
AYALA, an individual; MONICA
RESVALOSO, in both her individual
capacity and as guardian ad litem for A.
M. RODRIGUEZ-RESVALOSO, a
minor; J.C. RODRIGUEZ-
RESVALOSO, a minor; J.C.
RODRIGUEZ-RESVALOSO, a minor;
J.P. RODRIGUEZ-RESVALOSO, a
minor; J.T. RODRIGUEZ-
RESVALOSO, a minor,

Plaintiff,

v.

COUNTY OF RIVERSIDE; a
municipal corporation; RIVERSIDE
COUNTY SHERIFF'S
DEPARTMENT; and DOES 1 through
50, Inclusive,

Defendant.

Case No. 5:16-CV-00686-DOC (KKx)

**JOINT STIPULATION FOR
ENTRY OF PROTECTIVE ORDER
RE CONFIDENTIAL DOCUMENTS**

TO THE COURT, ALL PARTIES, AND TO THEIR ATTORNEYS OF
RECORD:

1. GOOD CAUSE STATEMENT.

The parties acknowledge that there are certain types of documents that are

conceivably discoverable in this action but whose discovery may be complicated or prohibited by issues of confidentiality, intellectual property, work product protections, or various privileges. For purposes of this Order, "Confidential Materials" or "Protected Materials" include, but are not limited to the following:

a. Any and all police reports, including but not limited to, incident and supplemental reports; crime analysis reports; radio communications; 911 calls; autopsy reports;

b. Any and all police personnel files, including but not limited to, Internal Affairs ("IA") investigation file documents, and comparable official government information;

c. Third party information in police reports, including but not limited to, incident and supplemental reports; crime analysis reports;

d. Personal information, including medical and mental health information,

e. Criminal history information which is not a matter of public record;

f. Educational and professional information;

g. Tax and/or financial records; and comparable records that a party typically treats as confidential in the normal course of business or affairs.

2. In light of the foregoing, the parties further acknowledge that, absent a protective order to limit the use or publication of such documents, in order to preserve the parties' respective interests, the parties might otherwise withhold certain documents from production or disclosure, which can then result in costly discovery disputes potentially requiring Court intervention.

3. Defendant, COUNTY OF RIVERSIDE ("County"), further contends that: (1) absent a court order thereon, police personnel records – including Internal Affairs investigation files and related complaints, statements, and records – are deemed confidential and preserved from disclosure under California state law (e.g., California Penal Code §§ 832.7 and 832.8; California Evidence Code §§ 1040, 1043, and 1045); and (2) police personnel records are also deemed confidential by federal decisional law

1 (e.g., *Sanchez v. Santa Ana Police Department* (9th Cir. 1990) 936 F.2d 1027, 1033-
2 1034). Plaintiffs do not agree with these contentions as stated herein and would move to
3 compel disclosure of any documents withheld on these grounds.

4 4. Therefore, in light of the foregoing, the parties agree that certain types of
5 confidential documents and/or information should be the subject of a protective order.
6 Accordingly, the parties, by and through their attorneys of record in this action, hereby
7 stipulate that good cause exists for a protective order in this matter regarding
8 confidential documents and/or information, and the parties respectfully request the
9 procedural protections listed herein below.

10 5. By agreeing to designate documents as "confidential," no party is waiving
11 its rights to assert and maintain objections and/or privileges, and by doing so no party is
12 admitting that such materials are subject to discovery or will be produced and/or that
13 such documents are admissible.

14 6. The parties agree unprotected disclosure of such information may
15 potentially contribute to adverse pre-trial publicity. Defendant County also raises
16 personal safety and privacy concerns if such information is made available to the
17 public. Accordingly, to expedite the flow of information, to ensure that the parties are
18 permitted reasonable necessary uses of such material in preparation for and in the
19 conduct of trial, to address their handling at the end of the litigation, and to serve the
20 ends of justice and each party's ability to receive a fair trial, a protective order for such
21 information is justified in this matter. It is the intent of the parties that such information
22 will not be designated as confidential for tactical reasons and that nothing be so
23 designated without a good faith belief that there is good cause why it should not be part
24 of the public record of this case. Therefore, a protective order is necessary to prevent
25 any party from disclosing the "confidential" information to the traditional media,
26 internet, or "social media" and to limit the dissemination of the material to those with a
27 true need to know.
28

STIPULATION FOR PROTECTIVE ORDER.

7. Plaintiff and Defendant have agreed that the above-listed documents and any others as determined by the Parties shall be designated confidential documents and/or writings because the Parties believe, in good faith, that some or all of these documents and/or writings are privileged, confidential, private and/or are of a sensitive nature.

8. The confidentiality of documentation being provided pursuant to this Protective Order will be accomplished by affixing to such document or writing a legend, such as "Confidential," "Confidential Documents," "Confidential Material Subject to Protective Order" or words of similar effect. The documents and writings so designated, and all information derived from those documents (collectively referred as "Confidential Information"), shall be treated in accordance with the terms of this stipulation/protective order. The "Confidential" mark or watermark shall not obscure the writings on the document's legibility and shall not be repeated more than once per page. The party designating material as confidential must take care to limit any such designation to specific materials that qualifies under appropriate standards, and must designate only those parts of material, documents, items, or oral or written communications that qualify so that other portions of the material, documents, items of communications are not swept unjustifiably within the ambit of this Order. Mass, indiscriminate designation is prohibited, and designations that are shown to be clearly unjustified or that have been made for an improper purpose may expose the designating party to sanctions. If it comes to the designating party's attention that it has designated materials that do not qualify for designation, the designating party must promptly notify all other parties in writing that it is withdrawing its designation for those materials.

9. Confidential Information may be used by those receiving such information only for the purpose of this above-captioned litigation.

10. Subject to the further conditions imposed by this stipulation/protective order, Confidential Information may be disclosed only to the following people:

1 a. Counsel for the parties and to experts, investigators, paralegal
2 assistants, office clerks, secretaries and other such personnel working under their
3 supervision;

4 b. Such other parties as may be agreed by written stipulation among the
5 parties here, or by Court Order;

6 c. Court personnel;

7 d. The parties themselves, including the officers, directors, and
8 employees, as necessary for the defense or prosecution of this action;

9 e. Professional jury or trial consultants, mock jurors, and Professional
10 Vendors to whom disclosure is reasonably necessary for this action and who have
11 signed the acknowledgement provided for in Paragraph 11;

12 f. The author or recipient of a document containing the information or a
13 custodian or other person who otherwise possessed or knew the information;

14 g. During depositions, witnesses, and attorneys for the witnesses, in the
15 action to whom disclosure is reasonably necessary provided that the deposing party
16 requests that the witness signs the acknowledgement provided in Paragraph 11 prior
17 to providing access to Confidential Material; and

18 h. Any mediator or settlement officer, and their supporting personnel,
19 mutually agreed upon by any of the parties engaged in settlement discussions.

20 11. Prior to the disclosure of any Confidential Information to any person
21 described in paragraphs a-h, with the exception of all Court Personnel and
22 employees of counsel for Plaintiff and Defendant, counsel for the party that has
23 received and seeks to use or disclose such Confidential Information shall first
24 provide any such person with a copy of this protective order, and shall cause him or
25 her to execute the following acknowledgment:

26 "I understand that I am being given access to Confidential Information
27 pursuant to the foregoing protective order. I have read the stipulation/protective
28 order and agree to be bound by its terms with respect to the handling, use and

1 disclosure of such Confidential Information.

2 Dated: _____/s/ _____" \

3 12. Nothing in this Order shall affect evidence presented at trial or other
4 court hearings or proceedings. Any use of Protected Material at trial or other court
5 hearings or proceedings shall be governed by the orders of the trial judge. This
6 Order does not govern the use of Protected Material at trial.

7 13. Nothing in this Order shall waive the right of either party to challenge
8 another party's designation of material as Confidential information or to seek to
9 modify or amend this Order. Any such challenge must be brought in strict
10 compliance with Local Rules 37-1 and 37-2 (including the Joint Stipulation
11 requirement). Notwithstanding the foregoing, and despite any dispute as to whether
12 any documents produced should be subject to the terms of the Stipulation and
13 Protective Order as a result of prior possession, the parties will continue to treat the
14 document(s) at issue as confidential and subject to this Stipulation and Protective
15 Order until the Court rules upon the dispute or until the parties reach agreement on
16 the issue, whichever comes first.

17 14. If, upon review of such a dispute, the Court determines that the disputed
18 Confidential Documents were already in the possession of the recipient party or counsel
19 prior to the date of this Stipulation and Protective Order, or prior to such documents'
20 production in this matter, those specific documents shall not be subject to paragraph
21 19's provisions on destruction of copies, nor shall the recipient party or counsel be
22 prohibited from using those specific documents in other litigation: otherwise, the
23 remaining provisions of this Stipulation and Protective Order shall continue to apply to
24 such documents as Confidential Documents hereunder.

25 15. The recipient parties to the above entitled action, and/or their counsel,
26 and/or their agents or the agents or employees of their counsel, shall secure and
27 maintain the confidentiality of any and all Confidential Documents in their
28 possession, and shall ensure that such Confidential Documents are used only for the

1 purposes set forth herein below, and for no other purpose, and subject to the terms
2 and provisions of this Stipulation and Protective Order.

3 16. Nothing in this Stipulation and Protective Order shall be construed as a
4 waiver by any party of any right to object on any ground to the use in any proceeding,
5 or to the admission into evidence, of any Confidential Documents. Nothing in this
6 Stipulation and Protective Order shall be construed so as to prevent the admission of
7 Confidential Documents into evidence at the trial of this matter solely on the basis of
8 the documents' designation as Confidential Documents.

9 17. Nothing in this Stipulation and Protective Order shall be construed as a
10 waiver by any party of any right it would otherwise have to object to disclosing or
11 producing any information or documents on any ground not specifically addressed in
12 this Stipulation and Protective Order, including but not limited to objections pursuant to
13 the California Government Code, California Evidence Code, California Penal Code, the
14 Official Records Privilege, the federal Official Information Privilege, the federal
15 Executive Deliberative Process Privilege, the law enforcement-investigative privilege,
16 the attorney-client privilege, the physician-patient privilege, the therapist-patient
17 privilege, the attorney work product protection, the taxpayer privilege, or the right to
18 Privacy under the United States Constitution, the California Constitution or any other
19 applicable state or federal authority, or any other privilege against disclosure or
20 production available under any provision of federal or California law. Nothing in this
21 Stipulation and Protective Order shall be construed as requiring the production or
22 disclosure of documents or information that may be or have been designated as
23 Confidential Documents.

24 18. This Stipulation and Protective Order shall not be construed as a
25 stipulation by any party that any privilege asserted by any party regarding Confidential
26 Documents, whether produced or disclosed or not, is applicable or valid as to such
27 documents; however, all parties, by and through their undersigned counsel, agree to
28 abide by the terms of this Stipulation and Protective Order and to maintain such

1 documents' confidentiality pursuant to the terms of this Stipulation and Protective
2 Order.

3 19. Even after final disposition of this litigation, the confidentiality obligations
4 imposed by this Order shall remain in effect until a Designating Party agrees otherwise
5 in writing or a court order otherwise directs. Final disposition shall be deemed to be the
6 later or (1) dismissal or all claims and defenses in this Action, with or without
7 prejudice; and (2) final judgment here after the completion and exhaustion of all
8 appeals, rehearings, remands, trials, or reviews of this Action, including the time limits
9 for filing any motions or applications for extension of time pursuant to applicable law,
10 all materials that were designated as confidential, as well as any other Court Ordered
11 Documents provided pursuant to this Protective Order and all copies thereof, shall be
12 destroyed and such destruction shall be confirmed by letter to the office of counsel of
13 the party to whom the materials pertain.

14 20. If any party who receives Confidential Information receives a subpoena or
15 other request seeking Confidential Information, he, she or it shall immediately give
16 written notice to counsel for the party to whom the request pertains, identifying the
17 Confidential Information sought and the time in which production or other disclosure is
18 required, and the affected party shall, per their discretion, object to the request or
19 subpoena on the grounds of this stipulation/protective order, OR other grounds and/or
20 obtain an order barring production or other disclosure, or to otherwise respond to the
21 subpoena or other request for production or disclosure of Confidential Material. No
22 party shall be obligated to seek an order barring production of Confidential
23 Information, which obligation shall be borne by the party to whom to the privileges
24 apply. The duty is to notify. However, in no event should production or disclosure be
25 made without written approval by the affected party's counsel unless required by Court
26 Order arising from a motion to compel production or disclosure of Confidential
27 Information. Nothing in this Stipulation and Protective Order shall be construed as
28 authorizing a party to disobey a lawful subpoena or court order issued in another action.

1 21. Any pleadings, motions, briefs, declarations, stipulations, exhibits or other
2 written submissions to the Court in this litigation, except at trial, with which
3 Confidential Information is included shall be subject to a motion or application, at the
4 discretion of any desirous party, to request that the papers, or the confidential portion
5 thereof, be placed under seal by the Court. Such motion must comply with Civil Local
6 Rule 79-5. Protected Material may only be filed under seal pursuant to a court order
7 authorizing the sealing of the specific document, and if a party's request is denied by
8 the court, then the receiving party may file the information in the public record unless
9 otherwise instructed by the Court.

10 22. Nothing here shall prejudice any party's rights to object to the introduction
11 of any Confidential Information into evidence, on grounds including but not limited to
12 relevance and privilege.

13 23. The fact that the parties have entered into this stipulation does not waive
14 any of parties' rights to challenge the designation of materials as confidential.
15 Nevertheless, the parties understand and acknowledge that non-public materials
16 contained within personal, financial and/or educational files and records are being
17 provided pursuant to this Protective Order and they are to remain protected by this
18 Order to the extent they were not publicly accessible originally. In the event there is
19 some "good faith" disagreement as to whether certain documents and/or information
20 provided by the parties that were labeled as "confidential" should be treated as
21 confidential, the parties agree to make informal attempts to resolve such issues.
22 However, to be clear, this stipulation and order in no way makes any originally publicly
23 accessible information confidential.

24 24. The Court shall maintain continuing jurisdiction over this matter to the
25 extent necessary to enforce the terms and /or address alleged breaches of this protective
26 order.
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1 IT IS SO STIPULATED.

2
3 DATED: August 2, 2016

ENGSTROM, LIPSCOMB & LACK

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5
6 By: /s/ Ian P. Samson
7 Paul A. Traina, Esq.
8 Steven J. Lipscomb, Esq.
9 Ian P. Samson, Esq.
10 Michael P. Lewis, Esq.
11 Attorneys for Plaintiffs, JUAN CARLOS
12 RODRIGUEZ AYALA, et al.

13 DATED: August 2, 2016

MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP

14
15
16 By: /s/ Angela M. Powell
17 Eugene P. Ramirez
18 Angela M. Powell
19 Attorneys for Defendants, COUNTY OF
20 RIVERSIDE, SERGEANT PAUL
21 HERDIA and DEPUTY MIGUEL
22 RAMOS

23 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

24 DATED: August 4, 2016

25 

26 **Hon. Kenly Kiya Kato**
27 United States Magistrate Judge
28

MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP
ATTORNEYS AT LAW